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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,728	10/11/2001	Jean Luc Archambault	330	8406
2292	7590	12/05/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			KIM, ELLEN E	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/975,728	ARCHAMBAULT ET AL.
	Examiner Ellen E Kim	Art Unit 2874

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

This action is responsive to Applicant's amendment filed on 10/06/03.

Response to Arguments

Applicant's arguments, see page 2, filed 10/6/03, with respect to the rejection(s) of claim(s) 1, 3, 4, 8-11, and 19 under 35 U.S.C. 102 (b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Vanoli et al and Goldberg et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(c), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1- 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanoli et al [USPAT 5,808,762] in view of Goldberg et al [USPAT 5,745,284].

Vanoli et al disclose an optical system comprising optical transmitters emitting light signals 1a-1d [see fig. 1], an optical combining element 2, optical filtering elements 39, and receiver circuits 8a-8d.

Vanoli et al discloses every aspect of claimed invention except for the second wavelength being variable among a plurality of wavelengths.

Goldberg et al disclose a solid-state laser source of tunable narrow-bandwidth ultraviolet radiation.

It would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify Vanoli et al's device to include the tunable laser source as shown in Goldberg et al's reference for the purpose of compact, lightweight, and electrically efficient optical system [see Goldberg et al's reference in column 1, lines 54-62].

In re claim 2, Vanoli et al teach at column 11, lines 13-19 that Fabry-Perot type filter is utilized.

In re claim 4, Official Notice is taken that optical combining element including optical filter is old and well known in the art. See In Re Malcolm 1942 C.D. 589:543 O.G. 440 MPEP 706.02 (a).

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify the device to include the optical combining element including the optical filter for the purpose of high coupling efficiency of the device.

In re claim 5, Vanoli et al show in fig. 6 the plurality of peaks that are periodically spaced apart.

In re claim 8, Vanoli et al and Goldberg et al disclose every aspect of claimed invention except for the second combining element.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have more than one combining element, since it has been held that mere

duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

In re claim 11, Vanoli et al teach at column 4, lines 29-34 that erbium doped fiber amplifier is utilized.

In re claim 12, modulators are utilized in Goldberg et al's device.

In re claim 14, Official Notice is taken that FECE and FECD are old and well known in the art. See In Re Malcolm 1942 C.D. 589:543 O.G. 440 MPEP 706.02 (a).

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify the device to include the FECE and FECD for the purpose of decreasing bit error rate.

In re claim 15, Official Notice is taken that CDMA is old and well known in the art. See In Re Malcolm 1942 C.D. 589:543 O.G. 440 MPEP 706.02 (a).

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify the device to include the CDMA for the purpose of simpler and economical optical system.

In re claim 18, Vanoli et al teach at column 11, lines 13-19 that grating can be utilized.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Further references of interest are cited on Form PLO-892, which is attachment to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen Kim whose telephone number is (703) 308-4946. The examiner can normally be reached on Monday and Thursday.

Ellen E. Kim
Primary Examiner
November 26, 2003/EK

